

# Calendar No. 565

86TH CONGRESS }  
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SENATE }

REPORT  
No. 567

## AMENDING THE ACT OF JUNE 21, 1950, RELATING TO THE APPOINTMENT OF BOARDS OF MEDICAL OFFICERS

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JULY 23, 1959.—Ordered to be printed

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Mr. ENGLE, from the Committee on Armed Services,  
submitted the following

### R E P O R T

[To accompany H.R. 3320]

The Committee on Armed Services, to whom was referred the bill (H.R. 3320) to amend the act of June 21, 1950, relating to the appointment of boards of medical officers, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE

This bill would change the method for determining mental competency of active and retired members of the uniformed services for the purpose of permitting pay to which such members otherwise are entitled to be paid to their representatives during the period of their incompetency. Under existing law such a determination must be made by a board of officers of the service to which the member belongs. Under this bill the determination of mental competency could be made by a board composed of members of the Federal agency which is in fact providing medical treatment for the service member.

#### EXPLANATION

##### *Legislative history*

Public Law 569, 81st Congress, permits the Secretary of the department concerned to designate a person to whom Federal pay otherwise due a mental incompetent member of the uniformed services may be paid. This law was intended to avoid hardships and expense resulting from the necessity of having a committee, guardian, or other legal representative appointed by a civil court. In the infrequent cases in which this problem arose, the disbursing officer could not make payments otherwise due until judicial proceedings had resulted in the appointment of an appropriate representative.

Under the 1950 act the determination of the mental competency of a member of the uniformed services is based on the recommendation of a board of three medical officers appointed by the Secretary of the Department of which the person examined is a member. The basic law requires that the person designated to receive the pay otherwise due a mentally incompetent member must give assurances that any sums received will be expended for the benefit of the incompetent person. If the amount to be paid exceeds \$1,000 an appropriate bond must be furnished. If a court of competent jurisdiction appoints a legal committee, guardian, or other representative of the incompetent person, the appointment of another person to receive the pay of the incompetent member is void except for payments made prior to notice of the court appointment.

#### *Change of circumstances*

Since the 1950 law was approved, cross-hospitalization among the uniformed services and the Veterans' Administration has become more extensive. When a question of the mental competency of a hospitalized member of a uniformed service arises, and the hospitalization is being provided by a service different from that to which the member belongs, it is necessary that either a board of officers from the service to which the member belongs travel to the place of hospitalization or a board of officers from the service to which the member belongs review and pass upon medical evidence presented by physicians actually examining the patient. In either case there is duplication of effort and sometimes there is unjustified expense.

This bill would permit the determination of mental competency to be made by a board appointed from the department or agency providing the hospitalization. In the rare instances in which hospitalization is provided in other than a federal facility, the bill requires that the competency determination shall remain the responsibility of the service to which the member belongs.

#### DEPARTMENTAL RECOMMENDATION

Printed below and hereby made a part of this report is a letter dated December 2, 1958, from the Deputy Secretary of Defense indicating that this measure is sponsored by the Department of Defense and that the Bureau of the Budget has no objection to it. Enactment of the bill should result in savings.

THE SECRETARY OF DEFENSE,  
*Washington, December 2, 1958.*

HON. SAM RAYBURN,  
*Speaker of the House of Representatives.*

DEAR MR. SPEAKER: There is forwarded herewith a draft of legislation to amend the act of June 21, 1950, relating to the appointment of boards of medical officers.

This proposal is a part of the Department of Defense legislative program for 1959, and the Bureau of the Budget has advised that there would be no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Air Force has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

## PURPOSE OF THE LEGISLATION

The purpose of this proposed legislation is to authorize the head of the Federal department or agency charged with the hospitalization or medical care of a member of the uniformed services (Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service) to appoint a board of medical officers from among medical officers or physicians of his department or agency to determine, in appropriate cases, the mental capacity of the member of the uniformed services.

The act of June 21, 1950 (37 U.S.C. 352), provides that the Secretary of the department to which a member of the uniformed services belongs may designate a person or persons to receive active-duty pay and allowances, any amounts due for accumulated or accrued leave, or any retired or retainer pay otherwise payable to that member of the uniformed services, if, in the opinion of competent medical authority, that member is mentally incapable of managing his own affairs. The act defines competent medical authority as "a board of not less than three qualified medical officers, one of whom shall be specially qualified in the treatment of mental disorders, appointed by the Secretary of the department concerned \* \* \* from available medical officers." At the time of enactment of this law, the hospitalization of both active-duty and retired members of the uniformed services was generally a function of the uniformed services. However, as a result of Executive Order 10400, dated September 29, 1952, responsibility for hospitalization of many members and former members was divided between the uniformed services and the Veterans' Administration.

Additionally, in a medical emergency a member of the uniformed services may be hospitalized in a Public Health Service hospital, or a hospital of another of the military services, dependent upon what Federal hospital is nearest. Under the present law, if the question of mental competency arises, it is necessary for the head of the department to which the member belongs to appoint a board of medical officers to make the necessary determination. In some cases, the medical officers may have to travel to the place of hospitalization. In others, it is at least necessary for the board to review the determinations made by the medical staffs of the hospital facilities. This process is not only expensive but is frequently time consuming and results in delayed decisions as to mental competency, delayed payments of military pay, and resultant hardships to the member and his family.

The proposed legislation would authorize the head of the department having jurisdiction of the hospital where the member is hospitalized to appoint the required medical board, thus eliminating the expense and delay. However, the proposed legislation retains authority in the Secretary of the department to which a member of the uniformed services belongs to appoint the required board if the hospitalization or medical care of the member is not provided by the United States in order to take care of the occasional cases in which the member is hospitalized in a non-Federal facility.

## COST AND BUDGET DATA

Enactment of the proposed legislation will cause no increase in budgetary requirements within the Department of Defense.

Sincerely yours,

(Signed) DONALD A. QUARLES, *Deputy*.

## CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law proposed to be made by the bill are shown as follows (existing law to be omitted is enclosed in black brackets new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

SECTION 2 OF THE ACT OF JUNE 21, 1950, CH. 342, AS AMENDED (37 U.S.C. 352)

SEC. 2. Any active-duty pay and allowances, or any amounts due for accumulated or accrued leave, or any retired or retainer pay, otherwise payable to any member of the uniformed services who, in the opinion of competent medical authority, is mentally incapable of managing his own affairs, is authorized to be paid, for the use and benefit of such incompetent member, to such person or persons who may be designated by the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Health, Education, and Welfare, or such other officer or officers as the respective Secretaries may designate for such purposes, without the necessity for appointment in judicial proceedings of a committee, guardian, or other legal representative, and any payments to the person or persons so appointed as provided herein shall constitute a complete discharge of the obligation of the United States as to the amounts so paid: *Provided*, That no person serving in a legal, medical, or fiduciary capacity, or in any other capacity, shall demand or accept any fee, commission, or charge for any services rendered under the authority of, or in connection with, the provisions of this Act: *Provided further*, That the provisions of this section shall not apply where a legal committee, guardian, or other representative has been appointed by a court of competent jurisdiction, except as to any payments made hereunder prior to the receipt in the paying agency of the department concerned of notice of such appointment: *[And provided further*, That competent medical authority shall consist of a board of not less than three qualified medical officers one of whom shall be specially qualified in the treatment of mental disorders, appointed by the secretary of the department concerned from available medical officers.] *And provided further*, That competent medical authority shall consist of a board appointed from available medical officers or physicians under his jurisdiction by the head of whichever of the following departments or agencies is providing medical treatment for the member, or by a person designated by the head of that department or agency:

- (1) *Department of the Army;*
- (2) *Department of the Navy;*
- (3) *Department of the Air Force;*



(4) *Department of Health, Education, and Welfare; or*

(5) *Veterans' Administration.*

*If the hospitalization or medical care of the member is not provided by the United States, the board shall be appointed by the secretary of the department having jurisdiction of the member. Each board shall consist of at least three qualified medical officers or physicians one of whom must be specially qualified in the treatment of mental disorders.*

SECTION 3 OF THE ACT OF JUNE 21, 1950, CH. 342, AS AMENDED (37 U.S.C. 353)

SEC. 3. The secretary of the department concerned *and the Administrator of Veterans' Affairs* shall prescribe such regulations as may be necessary to carry out effectively the provisions of this Act, including a requirement that such person or persons designated to receive payments as provided in section 2 above shall furnish satisfactory assurances that amounts received have been and will be applied to the use and benefit of the incompetent and, in cases wherein the payments may be reasonably expected to exceed \$1,000, that a suitable bond shall be provided by such person or persons which may be paid for out of sums due the incompetent.

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# (3) The effect of the use of the word "diagnosis" in the title of a paper.

The following is a list of the titles of the papers presented at the meeting of the American Medical Association, held at the Hotel Statler, Chicago, Ill., May 1, 1936. The titles are arranged in alphabetical order of the author's name. The titles are given in full, and the author's name is given in full. The titles are given in full, and the author's name is given in full.

Section 3 of the code of ethics of the American Medical Association, 1935. (A. C. S. 1935)

Section 3. The purpose of the code of ethics of the American Medical Association is to define the standards of conduct for the members of the association. The code of ethics of the American Medical Association is a set of rules and regulations that govern the conduct of the members of the association. The code of ethics of the American Medical Association is a set of rules and regulations that govern the conduct of the members of the association. The code of ethics of the American Medical Association is a set of rules and regulations that govern the conduct of the members of the association.